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May 14, 2004

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Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Room TW-B204A
Washington, D.C. 20554

Re: ALLTEL Communications Inc., Petition for Consent to Redefine Rural Telephone
Company Service Areas in Michigan
CC Docket No. 96-45, DA No. 04-686, DA No. 04-999

Dear Ms. Dortch:

Pursuant to the Commission's April 12, 2004 Public Notice,¹ ALLTEL Communications, Inc. ("ALLTEL") further supplements the record in the above-referenced proceeding in support of its request for Commission approval of the service area redefinition decision of the Michigan Public Service Commission ("MPSC"). Specifically, ALLTEL submits this supplement to reflect the requirements of *Highland Cellular*.² In designating Highland Cellular, Inc. an eligible telecommunications carrier ("ETC") in Virginia, this Commission elaborated on the population density analysis used in *Virginia Cellular* to demonstrate a lack of creamskimming opportunities.³ Because minimizing creamskimming is also one of the factors in the rural service

¹ FCC Public Notice, *Parties Are Invited to Update the Record Pertaining to Pending Petitions for Eligible Telecommunications Carrier Designations*, DA 04-999, CC Docket No. 96-45 (Apr. 12, 2004); 69 Fed. Reg. 22029 (Apr. 23, 2004) ("Public Notice").

² *Federal-State Joint Board on Universal Service; Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier In the Commonwealth of Virginia*, FCC 04-37, CC Docket No. 96-45 (Apr. 12, 2004) ("*Highland Cellular*").

³ *Federal-State Joint Board on Universal Service; Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier In the Commonwealth of Virginia*, 19 FCC Rcd 1563 (2004) ("*Virginia Cellular*").

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area redefinition criteria, *Highland Cellular's* development of the creamskimming analysis offers further guidance as to the requested service area redefinition by wire center.⁴

Accordingly, ALLTEL submits additional data to further demonstrate the absence of creamskimming opportunities in the partially served Michigan rural incumbent local exchange carrier ("ILEC") study areas covered by the MPSC's service area redefinition decision. Attached as Exhibit A is a revised wire center population density chart for the Michigan rural ILEC study areas partially served by ALLTEL's cellular service. It is similar to the population density chart submitted as Exhibit A to ALLTEL's supplemental filing of March 26, 2004 in support of its request ("March 26 Supplement"),⁵ except that the attached chart:

1. includes an additional column showing the total population of each wire center;
2. includes an additional column showing the area of each wire center in square miles;
3. expresses population density in terms of persons per square mile ("p./sq. mi."), rather than households per square mile; and
4. includes the average population density of all of the served wire centers and the average density of all of the unserved wire centers in each partially served study area in the population density column.

To assist the Commission, the average densities of the served and unserved wire centers in each partially served study area have been extracted from Exhibit A and summarized in a separate chart attached as Exhibit B.

As discussed below, this additional data permits a more refined creamskimming analysis. That analysis demonstrates that ALLTEL is eager to serve remarkably sparsely populated, high-cost rural service areas in Michigan presenting no risk of creamskimming. The Commission should immediately approve the MPSC's redefinition decision to facilitate the development of competition in the covered rural service areas.

I. Background

In a September 11, 2003 decision, the MPSC granted ALLTEL's application for competitive ETC status as a cellular telecommunications service provider in Michigan and

⁴ See, e.g., *Highland Cellular* ¶ 39.

⁵ Letter from Cheryl A. Tritt, Counsel, ALLTEL Comm., Inc., to Marlene H. Dortch, Sec., FCC, CC Docket No. 96-45, DA No. 04-686, Exh. A (Mar. 26, 2004) ("March 26 Supplement").

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redefined the rural ILEC service areas partially served by ALLTEL by “exchanges,” or wire centers (“*MPSC Decision*”).⁶ ALLTEL filed its petition for Commission approval of the MPSC’s service area redefinition decision on December 17, 2003 (“*Petition*”).⁷

In the March 26 Supplement, ALLTEL applied the creamskimming analysis that the Commission had set forth in *Virginia Cellular* in redefining certain rural ILEC service areas at the wire center level. In *Virginia Cellular*, the Commission noted that a low population density typically indicates a high-cost area and vice-versa. The Commission accordingly granted ETC status in partially served rural study areas where Virginia Cellular “will not be serving only low-cost areas to the exclusion of high-cost areas,”⁸ based on the relative “population densities of the wire centers Virginia Cellular can and cannot serve.”⁹

In *Highland Cellular*, the Commission refined *Virginia Cellular*’s creamskimming analysis by considering the relative total populations of certain ILEC wire centers falling within Highland Cellular’s licensed service area. In deciding that designation of Highland Cellular as an ETC would raise creamskimming concerns in the portion of Verizon South’s study area covered by Highland Cellular’s license, the Commission noted that

approximately 94 percent of Highland Cellular’s potential customers in Verizon South’s study area would be located in the four highest-density, and thus presumably lowest-cost, wire centers in Verizon South’s study area. ... In contrast, the remaining ... six percent of Highland Cellular’s potential customers in Verizon

⁶ *Application of ALLTEL Communications, Inc. for Designation as an Eligible Telecommunications Carrier Pursuant to Section 214(e)(2) of the Communications Act of 1934*, Case No. U-13765 (Mich. PSC Sept. 11, 2003) (“*MPSC Decision*”).

⁷ See *Petition of ALLTEL Communications, Inc. For Consent to Redefine the Service Areas of Rural Telephone Companies in the State of Michigan*, *Federal-State Joint Board on Universal Service*; *Petition of ALLTEL Communications, Inc. for Consent to Redefine the Service Areas of Rural Telephone Companies in the State of Michigan*, CC Docket No. 96-45 (filed Dec. 17, 2003) (“*Petition*”). All other filings made by ALLTEL in this proceeding will be cited in an abbreviated manner. See also *Amendment to the Petition of ALLTEL Communications, Inc. For Consent to Redefine the Service Areas of Rural Telephone Companies in the State of Michigan*, CC Docket No. 96-45 (filed Jan. 29, 2004).

⁸ *Virginia Cellular*, 19 FCC Rcd at 1578.

⁹ *Id.* at 1582.

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South's study area ... are located in the two lowest-density,
highest-cost wire centers....¹⁰

Thus, where a wireless ETC's licensed service area covers a portion of an ILEC study area including both low density and high density wire centers, it may be necessary for the Commission to review the relative populations of the two categories of wire centers in determining the impact of ETC status, as well as service area redefinition,¹¹ on creamskimming opportunities within the partially served study area.

II. The Application Of *Highland Cellular* Confirms The Absence Of Cream Skimming Opportunities

In the March 26 Supplement, ALLTEL stated that, of the partially served rural Michigan study areas, the overall average population density, in households per square mile, of the wire centers served by ALLTEL is lower than the average density of the wire centers that it does not serve, based on the wire center population density chart attached as Exhibit A to the March 26 Supplement. Using persons per square mile as the measure of population density, the revised attached Exhibit A shows the same result: the overall average density of the served wire centers (49 p./sq. mi.) is less than the density of the unserved wire centers (84 p. /sq. mi.). ALLTEL thus is not serving the higher-density, lower-cost wire centers to the exclusion of the lower-density, higher-cost wire centers in the partially served study areas. If anything, ALLTEL disproportionately serves the lower-density, higher-cost portions of the partially served study areas. The redefinition of these service areas by wire center therefore will not undercut the affected ILECs' abilities to serve their entire study areas.

The same result obtains when the population density comparison is made for each study area separately. In four of the five rural Michigan ILEC study areas partially served by ALLTEL, the attached exhibits show that the served wire centers are less densely populated than the unserved wire centers, and in the fifth study area, the average densities of the served and unserved wire centers are virtually identical.¹² This is the type of population density pattern that was found in *Virginia Cellular* not to raise creamskimming concerns.¹³

¹⁰ *Highland Cellular* ¶ 31.

¹¹ *See id.* ¶¶ 31, 39.

¹² This information is summarized in Exhibit B.

¹³ *Virginia Cellular*, 19 FCC Rcd at 1578-79.

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In one of the partially served study areas, Century Telephone of Michigan (“CenturyTel Mich.”), one of the 25 served wire centers has a density of 377 p./sq. mi., much greater than any other wire center in CenturyTel Mich.’s study area, but it accounts for slightly less than 12 percent of the total population of the served wire centers in that study area. The high density of that wire center thus is not likely to create any creamskimming opportunities or undercut CenturyTel Mich.’s ability to serve its entire study area.¹⁴ Moreover, CenturyTel Mich. has filed a disaggregation plan.¹⁵ Although the Commission, in *Virginia Cellular* and *Highland Cellular*, in considering the potential for creamskimming where ILECs had not filed disaggregation plans, “reject[ed] arguments that incumbents can, in every instance, protect against creamskimming by disaggregating high-cost support to the higher-cost portions of the incumbent’s study area,”¹⁶ it also recognized that

[t]here are fewer issues regarding inequitable universal service support and concerns regarding the incumbent’s ability to serve its entire study area when there is in place a disaggregation plan for which the per-line support available to a competitive ETC in the wire centers located in “low-cost” zones is less than the amount a competitive ETC could receive if it served in one of the wire centers located in the “high-cost” zones.¹⁷

Thus, although the mere possibility of filing a disaggregation plan is not, by itself, an inherent protection against creamskimming, where a rural ILEC has filed such a plan, it has made a judgment that, in fact, disaggregation will protect it against the possibility of creamskimming by a competitive ETC serving only the low-cost portions of its study area. CenturyTel Mich.’s disaggregation plan thus is a significant additional protection against creamskimming opportunities in its study area.

In the Wolverine Telephone Co. study area, there are two served and two unserved wire centers. One of the two served wire centers is the highest-density wire center in the study area, but the second highest-density wire center is one of the two unserved wire centers, and its density is roughly of the same magnitude as the highest-density wire center (104 vs. 123 p./sq. mi.). Moreover, the population of the second highest-density wire center is significantly greater

¹⁴ Cf. *Highland Cellular* ¶ 31 (where high density wire centers contained disproportionate share of total population of served wire centers, ILEC’s ability to serve entire study area undermined).

¹⁵ See Petition at 10 n.30.

¹⁶ See, e.g., *Highland Cellular* ¶ 32.

¹⁷ *Id.* ¶ 32 n.96.

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than the population of the highest-density wire center. Given this population density and distribution pattern, redefinition of the Wolverine service area by wire center should not undermine its ability to serve its entire study area. None of the other partially served study areas has any relatively high-density wire center or centers, and, thus, none of the creamskimming concerns raised in *Virginia Cellular* and *Highland Cellular* is implicated.¹⁸

III. Conclusion

Given the relative population densities and population distributions among the wire centers in the partially served rural Michigan study areas, it is clear that the proposed service area redefinition by wire center does not raise any significant creamskimming concerns. The requested redefinition, in conjunction with the ETC designation granted in the *MPSC Decision*, will not undercut the affected ILECs' abilities to serve their entire study areas or harm them in any other way, particularly in light of CenturyTel Mich.'s disaggregation plan. The MPSC is as "uniquely qualified to examine" ALLTEL's redefinition proposal as the Virginia Commission was to examine Virginia Cellular's requested redefinition.¹⁹ This Commission therefore should immediately consent to the MPSC's redefinition decision.

¹⁸ See, e.g., *Highland Cellular* ¶ 32.

¹⁹ See *Virginia Cellular*, 19 FCC Rcd at 1583-84.

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If you have any questions regarding this further supplement, please contact the undersigned.

Yours truly,

/s/ Cheryl A. Tritt

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